

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TAILER LAVERNE MOORE,
TAELE MOORE., and DARREN DION
MOORE, JR., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KRYSTAL YVETTE MOORE,

Respondent-Appellant,

and

DARREN DION MOORE,

Respondent.

UNPUBLISHED
June 24, 2003

No. 244170
Wayne Circuit Court
Family Division
LC No. 00-391805

Before: Sawyer, P.J., and Meter and Schuette, JJ.

PER CURIAM.

Respondent Krystal Moore appeals as of right the order terminating her parental rights pursuant to MCL 712A.19b(3)(c)(i), (g) and (j). The father has not appealed. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

I. FACTS

In August 2000, the Family Independence Agency (FIA) filed a petition asking the court to take temporary custody of Tailor Moore (born 10/28/94) and Taeler Moore (born 10/18/96). At the preliminary hearing, respondent testified that she had a heroin problem since 1994. She unsuccessfully sought treatment and continued to use drugs.

Respondent failed to appear for an October 2000 dispositional hearing on the petition. The court authorized the petition and entered a service plan that included, but was not limited to parenting classes, substance abuse treatment and counseling. By the time of the January 2001 dispositional hearing, respondent had not complied with the plan. At the April 2001 hearing,

respondent's attorney stated that she was receiving in-patient treatment. Social worker Patricia Gizinski testified that respondent had been discharged from one substance abuse treatment program for using drugs, but had started a new program. She completed the parenting course and received anger management and domestic violence counseling. She lost her home and did not have employment. There was no indication that respondent had provided drug screens.

After finding that respondent had failed to provide regular drug screens and was making living arrangements with Darren Moore, the father, who was not in compliance with his treatment plan, the referee ordered FIA to file a petition for permanent custody.

Respondent failed to appear for the May trial date. She claimed that she was admitted to Botsford Hospital. The hospital had no record of her admission and caller ID showed that respondent was calling from home. Rochelle McCloud, a social worker at Positive Images, testified that respondent was her client. Respondent was discharged from drug treatment in May 2001 because she was asking people for pills and tested positive for Benzedrine. She completed parenting classes.

Patricia Gazinski testified that after respondent was dismissed from Positive Images, she enrolled in the Renaissance West program. Gizinski was unable to obtain records from the program because respondent failed to provide the appropriate release. Respondent only attended ten of fifty-two scheduled visitations, which was upsetting to the children. The court found that respondent failed to complete the drug treatment program and did not visit the children on a regular basis and that she had lost her house.

I. TERMINATION OF PARENTAL RIGHTS

A. Standard of Review

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). This Court reviews the trial court's findings of fact for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *Id.* Regard is given to the special ability of the trial court to judge the credibility of the witnesses who appeared before it. *Id.*

B. Analysis

Respondent's parental rights were terminated under MCL 712A.19b(3)(c)(i),(g) and (j), which provide for termination of parental rights where clear and convincing evidence establishes the following:

- (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, find either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(g) The parent, without regard to intent, fails to provide proper care of custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

With regard to proper care and custody of the children, respondent's parental rights were terminated due to her substance abuse and failure to comply with her treatment plan. She failed to complete substance abuse treatment, provide random drug screens and attend most of the scheduled visitations with the children. Based on the evidence that she did not establish a suitable home for the children and show stable employment, it was reasonably likely that the children would be harmed if returned to respondent.

Based on the foregoing evidence, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, *supra* at 337.

III. BEST INTERESTS OF THE CHILDREN

A. Standard of Review

Once petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court is required to order termination of parental rights unless the court finds from evidence on the whole record that termination is clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the children's best interests is reviewed for clear error. *Id.*

B. Analysis

Respondent was offered various services in her service plan. The evidence shows respondent's failure to comply with the plan. Her continued substance abuse and failure to establish a suitable home for her children could cause a substantial risk of harm to the children.

Therefore, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 356.

Thus, the trial court did not err in terminating respondent-appellant's parental rights to the child.

Affirmed.

/s/ David H. Sawyer

/s/ Patrick M. Meter

/s/ Bill Schuette